

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

WALNUT VALLEY UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013060525

ORDER DENYING REQUEST FOR
SECOND CONTINUANCE

On July 24, the parties filed a joint request to continue the dates in this matter. The matter was originally set for hearing on July 11, 2013. It was previously continued until the current dates of August 28-29, 2013. The grounds of the request are that the parties have agreed to exchange certain documents, which will not be available until August 16, 2013, and which will require time in order to review.¹ As discussed below, this second continuance is denied.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

¹ Although the Motion requests a 30-day continuance, the requested dates of October 7-8, 2013, would actually constitute a continuance of 40 days.

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The parties have not established good cause for the requested continuance. The documents that will be available on or before August 16, 2013, can be reviewed before the current hearing dates of August 28-29, 2013.

IT IS SO ORDERED.

Dated: July 24, 2013

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings